

RECIPROCAL TRADE

*Agreement, protocol, and exchange of notes signed at Washington
December 18, 1939, supplementing and amending agreement of
August 24, 1934*

Proclaimed by the President of the United States December 19, 1939

Proclaimed by Cuba December 22, 1939

Proclamations exchanged at Havana December 22, 1939

Entered into force December 23, 1939

Supplemented by agreement of December 23, 1941 ¹

Made inoperative by agreement of October 30, 1947 ²

Terminated August 21, 1963 ³

54 Stat. 1997; Executive Agreement Series 165

AGREEMENT

The President of the United States of America and the President of the Republic of Cuba, being desirous of strengthening still further the traditional bonds of friendship and commerce between their respective countries by maintaining the basis of reciprocal preferential treatment in their commercial relations, and of making certain changes in the provisions of the trade agreement between the United States of America and the Republic of Cuba signed at Washington on August 24, 1934,⁴ have resolved to conclude a supplementary agreement for that purpose and have, through their respective Plenipotentiaries, agreed on the following Articles:

ARTICLE I

1. Items 58-C, 98-B, 165-C, 225, 256-D and 270-G of Schedule I ⁵ of the Agreement of August 24, 1934, are amended to read as follows:

[For text, see 54 Stat. 2000 or p. 4 of EAS 165.]

2. Item 64-B of Schedule I of the Agreement of August 24, 1934, shall

¹ EAS 229, *post*, p. 1198.

² TIAS 1703, *post*, p. 1229.

³ Pursuant to notice of termination given by the United States Aug. 21, 1962.

⁴ EAS 67, *ante*, p. 1163.

⁵ For schedules annexed to agreement of Aug. 24, 1934, see 49 Stat. 3570 or p. 14 of EAS 67.

be designated item 64-C and the following additional items shall be inserted in the said Schedule in the proper numerical order:

[For text, see 54 Stat. 2002 or p. 6 of EAS 165.]

3. Schedule I of the Agreement of August 24, 1934, is hereby amended by inserting after item 253-B the following:

[For text, see 54 Stat. 2002 or p. 6 of EAS 165.]

ARTICLE II

1. Item 501 of Schedule II of the Agreement of August 24, 1934, is amended by adding the following additional paragraphs to the note to the said item:

[For text, see 54 Stat. 2002 or p. 8 of EAS 165.]

2. Items 601, 603, 605, the note following item 605, and items 771 and 802 of Schedule II of the Agreement of August 24, 1934, are amended to read as follows:

[For text, see 54 Stat. 2004 or p. 10 of EAS 165.]

ARTICLE III

Article VIII of the Agreement of August 24, 1934, is amended to read as follows:

Articles the growth, produce or manufacture of the United States of America or the Republic of Cuba shall, after importation into the other country, be exempt from all internal taxes, fees, charges or exactions other or higher than those payable on like articles of national or any other foreign origin, subject, in the case of the United States of America, to the constitutional limitations on the authority of the Federal Government.

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed to this Agreement with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall be exempt from all other duties, taxes, fees, charges or exactions, in excess of those imposed on September 3, 1934, or required to be imposed thereafter by laws of the Republic of Cuba in force on September 3, 1934. The provisions of this paragraph shall not apply, however, to the tax of 1½ percent on gross sales and incomes referred to in Decree-Law No. 393 of November 8, 1935, or to any increase which may be made in the general rate of such tax.

Articles the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed to this Agreement shall, on their importation into the United States of America, be exempt from all duties other than ordinary customs duties and all taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed

on September 3, 1934, or required to be imposed thereafter by laws of the United States of America in force on September 3, 1934.

No internal Federal taxes shall be imposed on articles the growth, produce or manufacture of the Republic of Cuba enumerated and described in item 501 of Schedule II annexed to this Agreement in excess of those imposed on September 3, 1937, or required to be imposed thereafter by laws of the United States of America in effect on September 3, 1937.

The provisions of Article I and Article III of this Agreement and of the third paragraph of this Article shall not prevent the Government of the United States of America from imposing at any time on the importation of any article a charge equivalent to an internal tax imposed in respect of a like domestic article or in respect of a commodity from which the imported article has been manufactured or produced in whole or in part.

ARTICLE IV

1. The second paragraph of Article XVII of the Agreement of August 24, 1934, is amended by changing the period at the end thereof to a comma and adding the following:

subject to the provisions of Article XI and the third and fourth paragraphs of this Article.

2. The third paragraph of Article XVII of the Agreement of August 24, 1934, is amended to read as follows:

Notwithstanding the foregoing provisions, if the rates of duty specified in Column 2 of Schedule II annexed to this Agreement in respect of item 501 of the said Schedule should be increased in accordance with the provisions set forth in the note to the said item 501, the Government of the Republic of Cuba may propose negotiations for the modification of this Agreement. If agreement with respect to such proposal is not reached within thirty days following receipt thereof by the Government of the United States of America, the Government of the Republic of Cuba shall be free, within fifteen days after the expiration of the aforesaid period of thirty days, to terminate this Agreement in its entirety on thirty days' written notice.

3. Article XVII of the Agreement of August 24, 1934, is amended by adding the following new paragraph after the third paragraph of the said Article:

It is further agreed that, in the event that the Government of either country adopts any measure which, even though it does not conflict with the terms of this Agreement, is considered by the Government of the other country to have the effect of nullifying or impairing any object of the Agreement, the Government which has adopted any such measure shall consider such written representations and proposals as the other Government may make with a

view to effecting a mutually satisfactory adjustment of the matter; if no agreement is reached with respect to such representations or proposals within thirty days after they are received, the Government which made them shall be free, within fifteen days after the expiration of the aforesaid period of thirty days, to terminate this Agreement in its entirety on thirty days' written notice.

ARTICLE V

The present Agreement and the accompanying Protocol shall constitute an integral part of the Agreement of August 24, 1934.

ARTICLE VI

The present Agreement shall be proclaimed by the President of the United States of America and by the President of the Republic of Cuba in conformity with the laws of their respective countries. It shall enter into force on the day following the exchange of the proclamation of the President of the United States of America and the proclamation of the President of the Republic of Cuba, which shall take place in Habana as soon as possible.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, both authentic, at the city of Washington, this eighteenth day of December, 1939.

For the President of the United States of America:
CORDELL HULL [SEAL]
Secretary of State
of the United States of America

For the President of the Republic of Cuba:
PEDRO MARTÍNEZ FRAGA [SEAL]
Ambassador Extraordinary and Pleni-
potentiary of the Republic of Cuba

PROTOCOL

The undersigned, the duly empowered Plenipotentiaries of their respective Governments, have agreed on the following Articles with regard to the interpretation of the trade agreement between the United States of America and the Republic of Cuba, signed August 24, 1934, as amended by the supplementary agreement which they have signed this day:

ARTICLE I

The term "duty" as used in Article I of the Agreement of August 24, 1934, in relation to the undertakings of the United States of America and in Article

III of that Agreement shall be understood to continue to refer to ordinary customs duties.

ARTICLE II

The provisions of Article I of the Agreement of August 24, 1934, shall not be construed to be in conflict with Section 3424 of the Internal Revenue Code of the United States of America.

ARTICLE III

The term "duties" as used in the first sentence of Article XIII of the Agreement of August 24, 1934, shall be understood to refer to rates of duty.

ARTICLE IV

It is agreed that the words, "become inoperative", which appear in the English text of the Note to Item 501 of Schedule II of the Agreement of August 24, 1934, express the meaning intended by the Governments of the two countries, and that the corresponding Spanish text should read "quedaran sin efecto" in place of "fuesen derogadas".

In witness whereof, the respective Plenipotentiaries have signed this Protocol and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, both authentic, at the city of Washington, this eighteenth day of December, 1939.

For the President of the United States of America:

CORDELL HULL [SEAL]

*Secretary of State
of the United States of America*

For the President of the Republic of Cuba:

PEDRO MARTÍNEZ FRAGA [SEAL]

Ambassador Extraordinary and Plenipotentiary of the Republic of Cuba

EXCHANGE OF NOTES

The Cuban Ambassador to the Secretary of State

[TRANSLATION]

EMBASSY OF CUBA

WASHINGTON, D.C.

December 18, 1939

EXCELLENCY:

I have the honor to refer to the note which has been inserted after Item 253 of Schedule I of the trade agreement entered into between the United States and Cuba on August 24, 1934, by a provision of the supplementary

trade agreement between the United States and Cuba signed at Washington on this day.

It is, as I have informed you, the intention of my Government to give further consideration to the possibility of arranging an improvement in the tariff treatment of American rice imported into Cuba, such improvement to remain in effect so long as the share of United States consumption requirements of sugar which may be supplied by sugar originating in the Republic of Cuba is not altered to Cuba's disadvantage as compared with that established in the quota provisions of the United States Sugar Act of 1937.⁶

It is my understanding that in the event that my Government devises an arrangement for this purpose and such arrangement is found acceptable to your Government it may be applied to American rice imported into Cuba notwithstanding the provisions of Article II and Items 253-A and 253-B of Schedule I of the agreement of August 24, 1934, provided, however, that in the event such improved treatment is terminated by my Government, the provisions relating to rice in the aforesaid Items 253-A and 253-B of Schedule I of the trade agreement signed on August 24, 1934, shall again come into full effect.

I avail myself of this opportunity to renew to Your Excellency the assurances of my very high consideration.

MARTÍNEZ FRAGA

His Excellency

Mr. CORDELL HULL,
Secretary of State,
Washington, D.C.

The Secretary of State to the Cuban Ambassador

DEPARTMENT OF STATE
WASHINGTON
December 18, 1939

EXCELLENCY:

I have the honor to acknowledge your note of this date, in which you state that it is the intention of your Government to give further consideration to the possibility of improving the customs treatment of American rice imported into Cuba, such improvement to remain in effect so long as the share of United States consumption requirements of sugar which may be supplied by sugar originating in the Republic of Cuba is not altered to Cuba's disadvantage as compared with that established in the quota provisions of the United States Sugar Act of 1937.

I further have the honor to confirm your understanding that the note which has been inserted, by a provision of the supplementary trade agreement

⁶ 50 Stat. 903.

between the United States and Cuba signed at Washington on this day, after Item 253 of Schedule I of the trade agreement entered into between the United States and Cuba on August 24, 1934, will make possible the application of such an arrangement in the event it is desired by your Government and is found acceptable by my Government, notwithstanding the provisions of Article II and items 253-A and 253-B of Schedule I of the agreement of August 24, 1934.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

His Excellency

PEDRO MARTÍNEZ FRAGA,

Ambassador of the Republic of Cuba.